

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 110—Sales/Use Tax—Exemptions**

**EMERGENCY AMENDMENT**

**12 CSR 10-110.300 Common Carriers.** The director proposes to amend sections (1) and (4), add an annotation and re-letter existing subsections accordingly.

*PURPOSE: This rule is being amended as a result of statutory changes to Section 144.030.2(11).*

*EMERGENCY STATEMENT: The director finds that there is an immediate danger to the public welfare, which can only be addressed through this emergency amendment. This emergency amendment is necessary to ensure public awareness and to preserve a compelling governmental interest requiring an early effective date in that the emergency amendment informs the public of new sales tax exemptions that are available to various sellers and their customers as a result of enactment of TAFP CCS HCS SB 30 by the 94<sup>th</sup> Missouri General Assembly. These exemptions are effective August 28, 2007, and taxpayers need guidance regarding how these statutory changes impact them. A proposed amendment, which covers the same material, is published in this issue of the **Missouri Register**. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri** and **United States Constitutions**. The director believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment filed Aug. \_\_\_\_, 2007, effective Aug. 28, 2007, expires Feb. 23, 2008.*

(1) In general, materials, replacement parts, and equipment purchased for use directly upon, and for the repair and maintenance or manufacture of, motor vehicles, watercraft, railroad rolling stock or aircraft engaged as common carriers of persons or property are not subject to tax. Pumping machinery and equipment used to propel products delivered by pipelines engaged as common carriers are not subject to tax. Railroad rolling stock used in transporting persons or property in interstate commerce is not subject to tax. Motor vehicles licensed for a gross weight of twenty-four thousand (24,000) pounds or trailers used by common carriers *[solely]* in the transportation of persons or property *[in interstate commerce]* are not subject to tax.

(4) Examples.

(A) A manufacturer registered as a common carrier maintains a fleet of trucks to transport finished products to various distribution centers throughout the United States. The manufacturer advertises that it will transport goods belonging to others on return trips from the distribution centers and advertises that service. The purchase of the manufacturer's fleet of trucks and repair parts for the fleet are not taxable.

(B) A manufacturer maintains a fleet of trucks to transport finished products to various distribution centers throughout the United States. The manufacturer also

negotiates with other companies to transport goods on return trips from the distribution centers. The purchase of the manufacturer's fleet of trucks and repair parts for the fleet are taxable because the manufacturer is not a common carrier.

(C) A common carrier purchases a cab and chassis. The cab and chassis **are licensed for a gross weight of 24,000 pounds and will be** used only in intrastate commerce as a common carrier. The purchase of the cab and chassis is **not** taxable. The common carrier subsequently purchases a dump bed to add to the cab and chassis. The dump bed is exempt from tax because it is materials or equipment used in the manufacture of a motor vehicle to be used by a common carrier.

(D) The sale of a switch engine to be used to move railroad cars around a switching yard, if part of an interstate rail system, is not subject to tax.

*[(E)]* **(E)** A common carrier purchases a cab and chassis. The cab and chassis will be used only in intrastate commerce as a common carrier. The purchase of the cab and chassis is taxable because the cab and chassis are not used in interstate commerce. The common carrier subsequently purchases a dump bed to add to the cab and chassis. The dump bed is exempt from tax because it is materials or equipment used in the manufacture of a motor vehicle to be used by a common carrier.]

*[(F)]* **(E)** A common carrier purchases a trailer. The common carrier subsequently purchases a refrigeration unit to add to the trailer. The refrigeration unit is exempt from tax because it is materials or equipment used in the manufacture of a motor vehicle to be used by a common carrier.

*[(G)]* **(F)** The sale of a switch engine to be used to move railroad cars around a switching yard, if part of an interstate rail system, is not subject to tax.

*[(H)]* **(G)** An airline purchases equipment to test engine parts that have been removed from the plane and brought to their repair facility. The equipment purchased would be exempt from tax.

*[(I)]* **(H)** The owner of a Missouri furniture store is registered as a common carrier, but does not hold itself out to the general public as a common carrier. It uses its truck only to deliver furniture sold to customers residing in and outside Missouri. The owner installs new brakes on the truck. Even though the owner is registered as a common carrier, the brakes are taxable because the furniture store is operating as a private carrier.

*[(J)]* **(I)** A charter company [only provides bus transportation by] contracts **with private groups for exclusive use of its bus and driver** [private groups] for **transportation between Missouri and destinations in** [tours of] the Southeastern United States. **The company provides no other transportation services.** The charter company purchases new tires. The tires are taxable because the business is a contract carrier.

*[(K)]* **(J)** A railroad purchases a flanged wheel mechanized tie replacement machine for repairing broken rail segments on an interstate system. The purchase of the machine is exempt.

**AUTHORITY:** section 144.270, RSMo 2000, **and CCS HCS SB 30, enacted by the 94<sup>th</sup> General Assembly, 2007.** Original rule filed Jan. 24, 2001, effective Aug. 30, 2001. Emergency amendment filed Aug. \_\_\_\_, 2007, effective Aug. 28, 2007, expires Feb. 23,

2008. A proposed amendment, which covers the same material, is published in this issue of the **Missouri Register**.

**Emerson Electric Co. v. Director of Revenue, 133 S.W.3d 31 (Mo. banc 2004).** A common carrier does not have to use an aircraft as part of its common carrier operations to qualify to purchase the aircraft exempt from tax. “Mere storage or use of the plane in interstate commerce qualifies the common carrier for the exemption.”